



## NATIONAL GRANGE POLICY UPDATES and NEWS

July 24, 2015

### **EPA is Determined to Enforce Waters of the United States (WOTUS) rule**

What is the WOTUS Rule?

The Environmental Protection Agency (EPA) plans to begin enforcing its Waters of the United States (WOTUS) regulation on August 28. The final version is more specific about what would be exempt such as underground drainage from farm land. However, it also makes significant changes in definitions of tributaries and regulated wetlands. Definitions of tributaries were actually broadened in the final rule making so-called tributaries even more difficult for landowners to identify (they may even be invisible to the landowner or may no longer exist on the landscape). The final rule allows the agencies to identify tributaries based entirely on past rather than current conditions using "desktop" tools to indicate ephemeral tributaries were once present. Essentially, tributaries include any landscape feature where water sometimes flows in that feature and eventually reaches navigable water, no matter how many miles away. Therefore, WOTUS could well become a federal land use control mechanism that regulates practices for entire watersheds.

The House of Representatives has passed H.R. 1732 which would require consultation with local and state governments, alter the way tributaries are identified and sets limits on what wetlands could be regulated. The House also passed the Energy and Water Appropriations bill with a provision that blocks EPA from using appropriated funds (FY'16) to implement the WOTUS regulation. Several more appropriations bills pending in the House and Senate contain blocking language for FY '16 as do several more free-standing bills.

The President has promised to veto legislation that blocks or restricts implementation of the WOTUS rule. Therefore it is important that Congress pass

anti-WOTUS legislation, 1) by a veto-proof majority or, 2) roll WOTUS-blocking appropriations bills into a FY '16 omnibus spending package that would shut down the government if the President vetoes the omnibus.

In the meantime, 12 farmer, rancher, landowner, forest, manufacturing, building, and transportation groups have filed a complaint against the EPA and Corps of Engineers in a Texas federal district court. The complaint claims the new WOTUS rule goes beyond the intentions of the Clean Water Act, exercises broad control over land use and is unconstitutional. In addition, 28 states have now filed lawsuits to halt the WOTUS rule in 5 U.S. District Courts in Georgia, Ohio, Oklahoma, North Dakota and Texas.

Actions for Grangers:

Contact your Senators and Representatives by phone, email or letter immediately and urge them to vote against Waters of the U.S. (WOTUS) rule at every opportunity. Then, contact their state office (Senators) or district office (Representatives) to set up a face-to-face meeting when Congress is home for their month-long August Recess.

### **A Reasonable Compromise to GMO Labeling?**

The House of Representatives on Thursday passed the Safe and Accurate Food Labeling Act (H.R. 1599) on a huge 275-150 bipartisan vote. The bill clearly establishes FDA as the nation's lead authority on food safety. It creates a voluntary labeling program administered by USDA and would certify that foods bearing the label do not contain GMO ingredients. The USDA's Agricultural Marketing Service currently certifies a broad array of popular programs such as Certified Organic and Certified Angus Beef.

This bill appears to be a reasonable labeling compromise because the measure, 1) will give consumers a clear choice regarding GMOs and food, 2) removes labeling schemes that stigmatize foods based on nothing more than the way they were developed, 3) prevents a confusing patchwork of 50-state labeling policies for foods that may contain GMO ingredients, 4) clarifies that non-GMO milk and non-GMO meat must come from animals fed non-biotech feed, 5) allows state departments of agriculture to serve as certifying agents for non-GMO labeling, 6) requires FDA safety approval for new biotech crops prior to USDA approval for commercial use, 7) requires FDA to write definitions for labeling foods as "natural" because no official definitions currently exist, 8) allows state and local governments to ban the cultivation of genetically modified crops within their

jurisdiction and, 9) allows farmers to create enhanced markets for consumers who prefer GMO-free food. Both FDA and USDA were involved in drafting the bill.

Confusion and misinformation about GMO food labels are being scrutinized more often these days. The World Health Organization, the American Medical Association, the National Academy of Sciences and the American Association for the Advancement of Science have all declared there is no good evidence GMOs are unsafe. The Pew Research Center found 88 percent of scientists said food containing GMO ingredients is generally safe to eat, but only 37 percent of the public shared that view. Unfortunately, some food companies have exploited GMOs as a marketing tool. Fortunately, major media like the Washington Post's editorial board are beginning to investigate the divergence between informed opinion and popular anxiety.

National Grange policy has long supported the consumer's right to know what they are buying. At the same time, National Grange policy opposes mandatory labeling of foods containing GMO ingredients that can be construed as a warning label until such time as credible scientific studies indicate health risks.

## **House and Senate Differ on Highway Funding**

The House has approved \$8 billion to push back bankruptcy of the Highway Trust Fund for five months from July 31 to December 18. In the Senate, Majority Leader McConnell (R-KY) and Environment and Public Works Committee ranking member Boxer (D-CA) have reached a bipartisan deal for three years funding. The Senate is expected to vote on the measure before the August recess. The trust fund traditionally finances highway and bridge infrastructure projects with proceeds from the gas tax. A major sticking point between the House and Senate is whether to raise gas taxes necessary to breathe

life into the Highway Trust Fund long term or to find other offsets such as customs fees indexed to inflation and selling oil from the Strategic Petroleum Reserve. After Senate passage, differences between the Senate provisions and House provisions will be resolved in a joint Senate-House conference committee and returned to each body for approval.

## **Tax Extenders for Two Years or Permanent?**

Expired tax provisions critical to agriculture and energy development are getting renewed attention on Capitol Hill. The Senate Finance Committee, with strong bipartisan support, approved a two year extension of expired tax benefits plus

indexed them for inflation. Extenders included Section 179 expensing which allows for immediate expense deduction for items such as equipment, 50 percent depreciation deduction allowance, \$1 per gallon biodiesel tax credit, \$1.01 per gallon tax subsidy for cellulosic biofuels, a 30 percent investment tax credit for ethanol blender pumps, wind energy tax credits and more. The House prefers to make these and other extenders permanent linked with a long-term highway bill and perhaps additional tax reform later in the year.

## **Trade**

Trade Promotion Authority (TPA) was passed by Congress in June and signed by the President. TPA restores the President's authority to negotiate trade deals with other governments and submit them to Congress for approval. Focus now turns to finalizing the twelve-nation Pacific Rim Trans-Pacific Partnership (TPP). Negotiations on TPP have been progressing for several years. Significant progress has been made on the agricultural market access aspects of the agreement. A ministerial meeting aimed at finalizing the trade deal is set for the last week of July but most seasoned trade observers doubt that time line is feasible. Complications have arisen over so-called Japanese "sacred products" policies which include rice and beef as well as Canadian dairy and poultry policies. These differences will likely be resolved in coming months and the package will likely come before Congress later this fall. When TPP is finalized, the National Grange will scrutinize its approval process to be sure United States sovereignty is not being compromised. Sovereignty sensitivity has been heightened as a result of the United Nations (UN) vote to approve the Iran nuclear deal prior to a vote by the U.S. Congress.

## **Rural Broadband, High Speed Internet and Lifeline Phones**

USDA is funding \$74.8 million in telecom loans and \$11 million in community connect grants. According to Secretary Vilsack, "Broadband is fundamental to expanding economic activity and job creation in rural areas, and it is as vital to rural America's future as electricity was when USDA began bringing power to rural America 80 years ago." Several communities throughout the country that are currently without high-speed internet service or whose infrastructure needs upgrading will apply these funds to next-generation broadband service. The National Grange is actively engaged in all initiatives whether traditional telephone service, cell phone service, wireless connectivity or the government's Lifeline program that will better serve isolated and underserved citizens.

## **Patent Reform**

The House and Senate are currently working through efforts to make legislative updates to the U.S. patent system. Patent laws were created throughout our history to preserve the integrity and proprietary rights of patent holders against infringement. Lengthy and costly litigation has historically plagued the patent industry. Congress attempted to address this problem in 2011 by creating the Inter Partes Review (IPR) proceeding to provide a faster and more cost-effective alternative to litigation. Unfortunately, a number of unintended consequences resulted, and third parties who have no commercial interest in the patent are using this system for financial gain by threatening to force a parent into IPR proceedings. The National Grange will continue to seek a fair and equitable resolve.

## **Famers, Foodies and Family Farms**

Farming is "en vogue". Consumers are demonstrating their enthusiasm for all things "foodie" demanding fresh, local foods, the raw authenticity of farmers markets, farm-to-table restaurants and celebrity chefs. Some are even taking their food culture passion a step further and exploring farming as a way of life as a means to positively impact the environment and climate change. Certainly there is a huge disconnect between the Norman Rockwell image of American farming and the reality of what agriculture is today. So we have a new public passion, particularly among millennials, for food and agriculture but that passion is embedded in a caricature of a bygone era. Then add the growing perception that "big is bad" and agriculture is controlled by huge corporate farms. Is there any hope for farmers and foodies to work together? We can start by telling folks that 97% of all U.S. farms are family owned, 88% of all U.S. farms are small family farms, and 18% of principle operators on family farms started their business within the last 10 years. Most food on the table today have origins with multi-generational farm families who, over the decades, have grown their business in the spirit of the American dream. While they share the Rockwell heritage, they may look more like what's been coined "big ag". Most leading-edge family farmers are among the most sustainable stewards of the land, employing continuous improvement strategies to enhance the environment, save the soil, conserve water and treat animals humanely.

The Farmers and Ranchers Alliance has focused on some trust-building initiatives for those of us in production agriculture to remember when we're dealing with our "public" which could include our friends and neighbors. These are worth noting:

- Get engaged in the narrative stakeholders are having around you
- Be transparent and build on shared values

- Listen, acknowledge and respect public concerns; don't be defensive
- Demonstrate best practices already in place as well as your commitment to continuous improvement
- Share what's not possible and why
- Commit to a long term conversation

The end game is earning and sustaining trust and building relationships that cross both the consumer and political market place.